



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,401	07/30/2001	John P. Moyna	CJM-P-01-001	4664

7590 03/03/2003

PATENTS+TMS
A Professional Corporation
1914 North Milwaukee Avenue
Chicago, IL 60647

EXAMINER

BATSON, VICTOR D

ART UNIT	PAPER NUMBER
----------	--------------

3671

DATE MAILED: 03/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/918,401

Applicant(s)

MOYNA, JOHN P.

Examiner

Victor Batson

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-25 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 8-14 and 26-29 is/are rejected.
- 7) ☒ Claim(s) 5 and 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 26,27,28 are rejected under 35 U.S.C. 102(b) as being anticipated by Kinzenbaw et al. (5,346,019).

Kinzenbaw et al. discloses an apparatus for separating soil having all of applicant's claimed structure including a pillar, column, liner 180b and plates retaining the liner as shown in figure 6.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4,6,8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foley et al. (5,363,924) in view of McDaniel, Jr. (3,604,378).

Foley et al. discloses an apparatus for separating soil including a frame, a cylinder 60, a plurality of discs (not shown but inherently used in grain drills), a hitch (54) and a controller associated with the cylinder, wherein the controller is remote from the frame and controls movement of the frame. Concerning claims 3 & 4, member 48 is considered a pillar, with member 28 considered a column, and the inside surface of

Art Unit: 3671

member 48 considered a liner. Concerning the claimed method steps, given the structure of Foley et al., the claimed method steps would be inherently performed when using the device of Foley et al.. Concerning claim 9, the wheels that the shown tires are mounted on are considered plugs. Foley et al. however lacks specifying that the apparatus includes discs that are aligned on and attached to an axle between the frame and the soil.

McDaniel, Jr. teaches that it is notoriously old and well known in the agricultural arts for agricultural devices such as planters to use cultivating discs¹² that are aligned on and attached to an axle ¹³. The mounting of discs on a single axle is an efficient design because it allows multiple discs to be mounted to a frame without requiring individual mounting structure for each disc. Mounting the discs to an axle allows multiple discs to be mounted on the axle while the axle is simply mounted to the frame at a few locations (generally at each end of the axle). Additionally, mounting discs on an axle allows for greater flexibility as it allows the number of discs or disc spacing to be easily changed by simply changing the disc spacers, which cannot be as easily done if the discs are individually mounted to the implement frame.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Foley et al., by using multiple discs mounted on a single axle as taught by McDaniel, Jr., to provide a simplified design that provides greater flexibility regarding the number and positions of the discs.

Art Unit: 3671

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kinzenbaw et al. (5,346,019) in view of Taylor et al. (4,725,068).

Kinzenbaw et al. discloses an apparatus as described previously, including a hitch 18. Kinzenbaw et al., however lacks specifying that a connector that rotates 360 degrees, is used with the hitch. Kinzenbaw et al., does however show holes in the hitch that are used to connect the hitch to a towing vehicle (fig. 1a).

Taylor et al. teaches that it is known in the art to use a pin 84 to connect an implement frame to a tow vehicle. Pins are used as connecting devices as they allow for quick and easy connections. The examiner notes that although a tightened bolt often cannot be rotated, a pin such as the ones used with agricultural devices to provide quick connections can in fact rotate 360 degrees. Therefore, the use of a connecting pin that can rotate 360 degrees within its' aperture would meet the claimed limitation of the connector rotating 360 degrees.

It would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify the device of Kinzenbaw et al., by using a pin to connect the implement to a tow vehicle as taught by Taylor et al., to allow the implement to be quickly and easily attached to its' tow vehicle.

Allowable Subject Matter

Claims 5 & 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 15-25 are allowed.

Art Unit: 3671

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Batson whose telephone number is (703) 305-6356. The examiner can normally be reached on Monday through Friday (except Wednesday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on (703) 308-3870. The fax phone numbers for

Art Unit: 3671

the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1115.

February 23, 2003



Victor Batson
Primary Examiner
Art Unit 3671